REMARKS

Applicant thanks the Office for the attention accorded the present Application in the June 8, 2007, Office Action. In that Action, Claims 1-3 and 5 were rejected under 35 USC §102(b) as being anticipated by Zwanziger et al. (WO 95/33996).

Applicant has amended Claims 1 and 5 in accordance with the agreed upon language during the telephonic interview described below. Applicant has also amended Claims 4 and 6-19 in anticipation of the re-instatement of these withdrawn claims based on the agreement between the undersigned and the examiner that Claim 1 appears to be generic. Applicant has included the "withdrawn" status identifier along with the "currently amended" status identifier for Claims 4 and 6-19 for convenience of the Office and to expedite the examination.

Applicant's Statement of Substance of Interview

Applicant thanks the Office for the courtesy shown to the undersigned in the July 30, 2007, telephonic interview in which agreement was reached on the proposed amendments due to the additional language described in the Examiner's Interview Summary. Agreement was also reached with regard to independent Claim 1 being generic with regards to the election of species. Accordingly, Applicant hereby requests the re-instatement of withdrawn Claims 4 and 6-19 of the Group 1 invention.

35 USC §102(b) rejections:

The Office has rejected Claims 1-3 and 5 under 35 USC §102(b) as being

anticipated by Zwanziger et al. The Office states that Zwanziger discloses a diagnostic and directed medication system that includes a genomics-based drug metabolism test component and a prescription instruction component having two instructions that direct a user to perform the genomics-based drug metabolism test and to obtain a customized medical therapy based on the result of the drug metabolism test component. Applicant respectfully traverses.

Applicant has amended Claims 1 and 5 to include the limitation that Applicant's directed medication system is to minimize the potential of an adverse drug reaction to a prescribed medical therapy. Specifically, the preamble limits the device to one for minimizing the potential for an adverse drug reaction to a prescribed medical therapy, and the drug metabolism test component further limits the claimed invention to determining the presence of predefined drug metabolism markers that are indicative of the potential adverse drug reaction to the prescribed therapy. More specifically, the prescription instruction has a first instruction to obtain the drug metabolism test component and follow the instructions for submitting a sample for testing and a second instruction that directs the user on how to obtain a customized medical therapy, based on the result of the test, that contains a prescription for a medication that minimizes the potential for an adverse drug reaction. Support for the amendments can be found in Applicants' disclosure in paragraphs [0023]-[0025], [0039], [0044]-[0045], and [0050]-[0051].

The Zwanziger device is a home test kit with telephone verification of results. The home test kit is an assay system that receives a sample from the user. The assay

system produces a coded pattern indicative of the presence or a different coded pattern indicative of the absence of a disease or physiological condition. The user must then make a telephone call to an interpretation center, disclose the test pattern along with a test kit identifier assigned to the assay system, and receive an interpretation of the coded pattern from the interpretation center. The user, while on the telephone call, may also receive counseling, which is verbal and which may be appropriate in view of the interpretation of the coded pattern.

The Zwanziger home test kit is a chromatographic test kit that provides an indication of the presence or absence of a particular disease or physiological condition. Applicant's directed medication system is not a test to provide an indication of the presence or absence of a particular disease or physiological condition. Applicant's directed medication system is to determine whether the patient, who is prescribed a medication used to treat a particular disease or physiological condition that the patient already knows exists, is more prone to have an adverse drug reaction to the medication. Depending on the test results, the healthcare provider for the user can modify or change medical therapy to minimize the potential for an adverse drug reaction.

In addition, Zwanziger's and Applicant's devices are quite different in the problems to be solved. One would use the Zwanziger device to determine the presence or absence of a particular disease or physiological condition and, once determined to be present, then one could use Applicant's device to determine if the usually prescribed medical therapy would cause an adverse drug reaction requiring a

modification or customization of the medical therapy.

The Zwanziger fails to disclose a second instruction that directs the use on how to obtain a customized medical therapy containing a prescription for a medication that minimizes the potential for an adverse drug reaction.

In light of the above amendments and arguments, Applicant respectfully submits that the 35 U.S.C. §102(b) rejection of Claims 1-3 and 5 have been successfully traversed. Allowance of these claims is therefore requested.

Where Claim 1 is deemed to be generic, Applicant also respectfully requests the reinstatement of Claims 4 and 6-19 of the Group 1 invention and allowance of these claims.

Applicant believes that all of the examined claims should now be in condition for allowance as well as the withdrawn claims of the Group 1 invention. Early and favorable action is respectfully requested.

The Examiner is invited to telephone the undersigned, Applicant's attorney of record, to facilitate advancement of the present application.

Respectfully submitted,

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